



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Geo. H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Mr. Sheppard:

Opinion No. O-7221

Re: Is the \$2.00 fee paid to the
State Department of Education
for a teacher's certificate
subject to a refund, if the
certificate was not granted?

We have given careful consideration to your letter
which reads as follows:

"An applicant paid to the State Department
of Education Board of Examiners the fee of \$2.00
for a teacher's certificate. The \$2.00 fee was
placed in the suspense fund by the State Depart-
ment of Education. The applicant later moved to
Puerto Rico and does not want a certificate.

"Is the \$2.00 fee subject to refund to the
applicant?"

We presume this \$2.00 was paid under the provisions
of Article 2879 of the Revised Civil Statutes, which provides
that where a person desires to take the examination for a
teacher's certificate, he must make application therefor to
the County Superintendent, who shall make an investigation,
and give him a written recommendation to the County Board of
Examiners to examine the applicant. The County Superintendent
is required to forward to the State Superintendent all of the
papers relative to said application, to be submitted by him to
the State Board of Examiners. Said Article specifically pro-
vides that "no person shall receive the recommendation of the
County Superintendent without first depositing with the County
Superintendent the sum of \$4.00 as an examination fee, and the
recommendation given by the County Superintendent shall show
the receipt of said fee."

Said statute also requires the County Superintendent
when he sends the papers to the State Superintendent to send

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him \$2.00 of the \$4.00 paid by the applicant.

As we understand, the request here made is as to whether the \$2.00 that was sent to the State Superintendent can be refunded to the applicant, who has gone to Puerto Rico, and who for said reason does not now desire a teacher's certificate.

Under the law, there was no occasion or reason for this \$2.00 having been placed in the Suspense Account. It was improperly put in said Account. The money was paid under the law as a statutory requirement before the applicant could take his county examination, or before the papers could be sent to the State Superintendent. Under said statute, it is immaterial whether the applicant obtained a certificate; regardless of any fact or condition, he was not and is not entitled to have said money refunded after it was sent to the State Superintendent.

You are advised that the money cannot be refunded; on the other hand, we think the \$2.00 should be placed in the proper fund in the State Treasury.

With reference to the general principle of placing funds in the Suspense Account, we enclose you herewith a copy of our Conference Opinion No. 3048, addressed to Honorable Tom C. King, State Auditor, May 8, 1939. — 640



Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Geo. W. Barons*
Geo. W. Barons
Assistant

GVB-MR

Enclosure

